

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.8712 OF 2004

DATED: 14.9.2005

Between:

P. Anil Kumar, S/o P. Parameswara Rao,
aged about 37 years, working as Lecturer
in Civil Engineering, Kamala Nehru
Polytechnic for Women, Exhibition Grounds,
Nampally, Hyderabad
... Petitioner

and

The Commissioner of Technical Education,
BRKR Bhavan, Government of Andhra Pradesh,
Hyderabad and others
... Respondents

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ORAL ORDER:

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Heard Sri P. Veera Reddy, learned counsel for the petitioner, the Government Pleader for Higher and Technical Education, and Sri P.R. Prasad, counsel for respondent No.4. None for the 3rd respondent.

By proceedings dated 7.4.2004, the 1st respondent directed the Kamala Nehru Polytechnic for Women, represented by its Secretary-second respondent, to consider the representation of the 4th respondent, a lecturer in Civil Engineering Section for promotion to the post of Head of Civil Engineering Section in Polytechnic, as the 4th respondent is fully qualified to hold the post and is senior to the petitioner. It is this order of the 1st respondent that the petitioner is aggrieved by.

The fourth respondent, a diploma holder, entered service of the Polytechnic, a fully aided private educational institution, as a Demonstrator in Civil Engineering on 15.11.1980. Pursuant to a notification calling for applications from desiring and eligible candidates for filling up certain posts in the Polytechnic, including the post of a lecturer in Civil Engineering, the petitioner applied, was successful at the selection and was appointed as lecturer with effect from 25.9.1992.

In G.O.Ms.No.948 dated 23.12.1982, the State Government issued orders towards unification of cadres of Demonstrators and Assistant Lecturers in Government Polytechnics. Under this unification of the cadres scheme, inter alia, diploma holders with 5 years or more service working as Demonstrators were eligible for re-designation as Associate Lecturers and diploma holders with 10 years or more service as Assistant Lecturers were entitled for designation as Lecturers. It is the admitted case of the parties herein and on which there is no demurral recorded by the petitioner, that the unification of cadres scheme, introduced for Government Polytechnics in G.O.Ms.No.948 dated 23.12.1982, has thereafter been made applicable to private aided Polytechnics, as well.

Pursuant to the scheme as admittedly made applicable to the aided

Polytechnics, the 4th respondent was re-designated as Associate Lecturer on 1.4.1991 and by subsequent orders of the management dated 15.10.1993, the 4th respondent was re-designated as Lecturer with effect from 6.1.1992 as she had completed 10 years of service as Demonstrator, though a diploma holder.

As a consequence of the 4th respondent's re-designation as a Lecturer with effect from 6.1.1992, the 4th respondent became senior to the petitioner, who was appointed as a Lecturer by direct recruitment with effect from 25.9.1992. This chronology between the petitioner and the 4th respondent is undisputed and demonstrable.

The post of Head of Department, Civil Engineering in the Polytechnic, fell vacant on 30.6.2001. Earlier on 19.6.2001, the petitioner represented to the management of the Polytechnic for considering his case for appointment as Head of the Department in view of the petitioner's asserted seniority over the 4th respondent. Similarly, the 4th respondent also applied for consideration of his case as Head of the Department, but addressed it to the 1st respondent. On 27.6.2001, the 1st respondent instructed the management of the Polytechnic not to fill up the post of Head of the Department, Civil Engineering, till the seniority dispute (between the petitioner and the 4th respondent) is resolved and also called for a report from the management of the Polytechnic with a view to identify the correct seniority position.

While the 1st respondent was deliberating with a view to resolve the issue of the seniority dispute between the petitioner and the 4th respondent, it is alleged by the petitioner, the 3rd respondent-Principal of the Polytechnic recommended the 4th respondent's appointment as Head of the Department, Civil Engineering, on a perception that the 4th respondent is senior to the petitioner in the cadre of Lecturer in Civil Engineering. Consequent on the 3rd respondent's proposals, the 1st

respondent issued a direction on 2.8.2002 to the management of the Polytechnic to promote the 4th respondent. Thereafter, on the persuasions of the petitioner, the governing body of the Polytechnic represented to the 1st respondent that the petitioner is senior to the 4th respondent and it is the petitioner, who has to be promoted as Head of the Department and not the 4th respondent. This was on 5.11.2002. Thereafter, by the impugned proceedings, the 1st respondent reiterated his earlier direction dated 2.8.2002, to promote the 4th respondent as Head of the Department in the Polytechnic in view of the 4th respondent's seniority over the petitioner in the cadre of Lecturer.

The above is a factual matrix of the case. Clearly and indisputably, in view of the scheme of unification of cadres of Demonstrators and Assistant Lecturers in Government Polytechnics, which admittedly has been applied to private aided Polytechnics as well, the 4th respondent is entitled to designation as a Lecturer on completion of 10 years of service despite being a mere diploma holder. In fact, she was so re-designated as a Lecturer with effect from 6.1.1992. On such re-designation, which proceedings has not been challenged by the petitioner and has become final by efflux of time, the 4th respondent becomes senior to the petitioner in the cadre of Lecturer as the petitioner was appointed as Lecturer on 25.9.1992, nearly 8 ½ months after the date, with effect from which the 4th respondent stood re-designated as Lecturer in Civil Engineering in Polytechnic.

In view of these facts, the petitioner has no legitimate claim to seniority over the 4th respondent. Resultantly, the decision of the 1st respondent or the recommendations of the 3rd respondent, considering the 4th respondent as senior to the petitioner in the cadre of Lecturers in Civil Engineering in Polytechnic, suffers from no legal infirmity, warranting interference by this court. The directions of the 1st respondent, either the one dated 2.8.2002 or the one impugned in the writ petition,

dated 7.4.2004, do not suffer from any infirmity and cannot be interdicted in judicial review.

On the aforesaid analysis, the writ petition is without merits and is accordingly dismissed. The interim order of status-quo dated 30.4.2004 accordingly stands dissolved. There shall, however, be no order as to costs.

14.9.2005

CVM